

REMARKS

In response to the Final Office Action dated August 28, 2009, claims 1, 17, 28, 30, 33, 35 and 46 have been amended. Claims 1-2, 5-7, 9-12, 14-21, 28, 30-33, 35, 37-38, 39, 41-44, 46-47, 50-52 and 54-57 are pending in the application.

In paragraph 3 on page 2 of the Office Action, claims 1-12, 14-33, 35-44 and 46-57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Herz in view of Rooney and in further view of Goykhman.

Applicant respectfully traverses the rejection, but in the interest of expediting prosecution has amended claims to more particularly distinguish the invention over the cited reference.

Independent claim 1 sets forth a method for predicting the behavior of a current user of an interactive television service. The method includes observing activity associated with a set top box of a current user engaging with the interactive television service, collecting the observed activity in a database, identifying, by the set top box, activities of the current user engaging with the interactive television service and conditions surrounding each of the identified activities of the current user, including amount of time the current user participated in each of the identified activities, accessing a first collection of data comprising data associated with (i) cumulative activities associated with a set top box of other users, (ii) conditions surrounding the cumulative activities associated with a set top box of the other users, including amount of time that each other user participated in each respective activity and (iii) patterns of behavior associated with the cumulative activities associated with a set top box of the other users and the conditions surrounding the cumulative activities associated with a set top box of

the other users, wherein the cumulative activities include viewing interactive television programming, comparing the identified activities and the surrounding conditions associated with the identified activities of the current user with the cumulative activities and the surrounding conditions associated with the cumulative activities of the other users to identify similarities therebetween, identifying a pattern of behavior associated with the identified similarities between the identified activities and the surrounding conditions associated with the identified activities of the current user and the cumulative activities and the surrounding conditions associated with the cumulative activities of the other users and attributing to the current user the identified pattern of behavior as a future behavior of the current user.

In contrast, Herz merely teaches a method that identifies objects that a user will likely desire, such as news articles, in an electronic media environment. A "target profile" is constructed for each target object. The target profile for each target object may be based, for example, on the frequency with which each word appears in an article relative to its overall frequency of use in all articles. The target profile also considers a "target profile interest summary" for each user. The target profile interest summary describes the user's interest level in various types of target objects. The system then evaluates the target profiles against the users' target profile interest summaries to generate a user-customized rank ordered listing of target objects most likely to be of interest to each user.

However, Herz fails to suggest observing activity associated with a set top box of a current user engaging with the interactive television service and collecting the observed activity in a database. Herz only discloses measuring the frequency of words in an article

relative to its overall frequency of use in all articles and collecting user interest in various types of objects.

Herz also fails to suggest identifying the conditions surrounding each of the identified activities of the current user, including the amount of time the current user participated in each of the identified activities associated with the set top box. Herz does not mention an interest in conditions surrounding each of the identified activities. In particular, Herz does not mention identifying the amount of time the current user participated in each of the identified activities associated with the set top box.

Moreover, Herz fails to suggest identifying a pattern of behavior associated with the identified similarities between the identified activities and the surrounding conditions associated with the identified activities of the current user and the cumulative activities and the surrounding conditions associated with the cumulative activities of the other users

Herz also does not attribute to the current user the identified pattern of behavior as a future behavior of the current user. Herz merely discloses predicting what object a user will desire.

The Office Action admits that Herz fails to teach explicitly a set top box. However, the Office Action asserts that Rooney teaches a set top box. Nevertheless, Rooney fails to overcome the deficiencies of Herz.

Rooney merely discloses a method and system for providing data communication between a sender and a plurality of recipients. Rooney merely discloses that the set top box is provided to enable communication with a server. Other embodiments of communication, i.e., those that do not use the cable system, do not use a set top box. Thus, the set top box is merely a means for allowing a user to access server. Thus,

Rooney only discloses “allowing” the user to interact. Rooney does not suggest observing activity associated with a set top box of a current user engaging with the interactive television service, collecting the observed activity in a database,

The combination of Herz and Rooney also fails to suggest identifying the conditions surrounding each of the identified activities of the current user, including the amount of time the current user participated in each of the identified activities associated with the set top box. Neither Herz nor Rooney mention an interest in conditions surrounding each of the identified activities. Herz and Rooney both fail to mention identifying the amount of time the current user participated in each of the identified activities associated with the set top box.

The combination of Herz and Rooney also fails to suggest identifying a pattern of behavior associated with the identified similarities between the identified activities and the surrounding conditions associated with the identified activities of the current user and the cumulative activities and the surrounding conditions associated with the cumulative activities of the other users

Herz and Rooney also fail to suggest attributing to the current user the identified pattern of behavior as a future behavior of the current user. Herz merely discloses predicting what object a user will desire. Rooney only discloses that a user interacts with a set top box.

Thus, Herz and Rooney , alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 1, 17, 35 and 46, as amended.

Goykhman fails to overcome the deficiencies of Herz and Rooney. Goykhman merely discloses an activity tracking system 8 that selects an activity identifier 32, and

that its corresponding activity descriptor 62 is identified by the indicator 64 within the list of activity descriptors 62 displayed in the activity tracking window 60 to show it has been identified by the activity tracking system 8 as the current activity. The user can then evaluate whether the activity tracking system 8 has selected an appropriate activity descriptor 62 for the current activity. The activity tracking system then begins to record the elapsed time the user spends on the selected activity.

Accordingly, Goykhman merely discloses monitoring and tracking the activities of a user of a computer by establishing associations between the states of certain computer system parameters and specific activities. However, Goykhman fails to disclose the elements discussed above.

Thus, Herz, Rooney and Goykhman, alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 1, 17, 35 and 46, as amended.

Dependent Claims 2, 5-7, 9-12, 14-16, 18-21, 28, 30-33, 37-38, 39, 41-44, 47, 50-52 and 54-57 are also patentable over the references, because they incorporate all of the limitations of the corresponding independent claims 1, 17, 35 and 46, respectively. Further dependent claims 2, 5-7, 9-12, 14-16, 18-21, 28, 30-33, 37-38, 39, 41-44, 47, 50-52 and 54-57 recite additional novel elements and limitations. Applicant reserves the right to argue independently the patentability of these additional novel aspects. Therefore, Applicant respectfully submits that dependent claims 2, 5-7, 9-12, 14-16, 18-21, 28, 30-33, 37-38, 39, 41-44, 47, 50-52 and 54-57 are patentable over the cited references.

On the basis of the above amendments and remarks, it is respectfully submitted that the claims are in immediate condition for allowance. Accordingly, reconsideration of this application and its allowance are requested.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Attorney for Applicant, David W. Lynch, at 865-380-5976. If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 13-2725 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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